

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7025

BILL NUMBER: SB 314

NOTE PREPARED: Apr 3, 2003

BILL AMENDED: Feb 27, 2003

SUBJECT: Drug Paraphernalia.

FIRST AUTHOR: Sen. Long

FIRST SPONSOR: Rep. L. Lawson

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill makes the reckless possession or sale of drug paraphernalia a Class B misdemeanor or a Class D felony for repeat offenses. It also makes the knowingly or intentionally possessing drug paraphernalia a Class A misdemeanor, or a Class D felony for repeat offenses.

Effective Date: July 1, 2003.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) This bill makes the following changes to the drug paraphernalia laws:

<u>Offense of Drug Paraphernalia</u>	<u>Current Penalty</u>	<u>Proposed Penalty</u>
Knowing or Intentional Possession	Class A Infraction	Class A Misdemeanor
Reckless Possession	Class A Misdemeanor	Class B Misdemeanor
Knowing or Intentional Dealing	Class A Infraction	Class A Misdemeanor
Reckless Dealing	Class A Misdemeanor	Class B Misdemeanor

Reducing Class A Misdemeanors to Class B Misdemeanors: Revenue to the Common School Fund could be reduced if a person is sentenced for a Class B misdemeanor rather than for a Class A misdemeanor. Currently, the maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class B misdemeanor is \$1,000. Court fees of \$120 would remain unchanged.

Increasing Class A Infractions to Class A Misdemeanors potentially increases revenue to the Common School Fund but could reduce revenue that is deposited in the state General Fund. This is because fines from misdemeanors are deposited in the Common School Fund, while infraction judgements are deposited in the state General Fund. Currently, the maximum judgment for a Class A infraction is \$10,000, which is deposited into the state General Fund, while the maximum fine for a Class A misdemeanor is \$5,000, which is deposited into the Common School Fund. Besides the issuance of fines, the sentencing court may assess a court fee if a guilty verdict is entered. The court fee for an infraction is \$70, while the court fee for a misdemeanor is \$120. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court.

Explanation of Local Expenditures: (Revised) *Reducing Class A Misdemeanors to Class B Misdemeanors:* Costs to the local governments could decrease since the maximum term of imprisonment for a Class A misdemeanor is up to one year, while the maximum term for a Class B misdemeanor is up to 180 days. The average daily cost of housing a prisoner is an estimated \$44.

Increasing Class A Infractions to Class A Misdemeanors: Local expenditures could increase if offenders are incarcerated in local jails instead of being only assessed an infraction judgment. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost of housing an offender in jail is reported to be \$44. There is no term of imprisonment for an infraction.

Explanation of Local Revenues: (Revised) *Reducing Class a Misdemeanors to Class B Misdemeanors:* Court fees of \$120 would remain unchanged.

Increasing Class A Infractions to Class A Misdemeanors: Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors. (The court fee for an infraction is \$70, while the court fee for a misdemeanor is \$120.) 27% of court fees that are collected are deposited in the county general fund when a guilty verdict is entered for a misdemeanor. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. From city and town courts, the county general fund receives 20% of the court fee, while the city or town general fund receives 25%.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.

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